
OLR Bill Analysis

sSB 453

AN ACT CONCERNING CERTIFICATES OF RELIEF FROM BARRIERS RESULTING FROM CONVICTION OF A CRIME.

SUMMARY:

Currently, the Board of Pardons and Paroles can issue a provisional pardon to an eligible offender to relieve him or her of certain barriers to employment or obtaining a credential (such as an occupational license) resulting from a criminal conviction.

This bill renames provisional pardons as “certificates of relief from barriers” and:

1. allows their issuance to relieve people of barriers and forfeitures related to public housing;
2. allows the Superior Court, in addition to the board, to issue certificates;
3. makes a number of minor changes to criteria and procedures for the board’s issuance of certificates;
4. requires courts and the board to report to the Office of Policy and Management (OPM) on certificate applications and petitions and the Sentencing Commission to post the data and evaluate the effectiveness of certificates;
5. prohibits the state or a state agency from denying employment or a credential based on a criminal conviction unless it is directly related to the position or credential sought and provides that a certificate shows presumed suitability for the job or credential;
6. requires a public housing authority, when considering a person’s criminal history to determine eligibility for renting public housing, to consider that an applicant has a certificate, except as

required by federal law;

7. allows a certificate applicant to obtain an investigative report prepared for the board about the applicant (currently these reports are confidential except where required or permitted by statute or the board specifically authorizes disclosure); and
8. makes technical and conforming changes.

Because the bill eliminates references to provisional pardons and transfers all of the provisions governing them to certificates of relief from barriers, it is unclear how the bill's changes affect provisional pardons issued before October 1, 2012.

EFFECTIVE DATE: October 1, 2012

BARRIERS AND FORFEITURES

A provisional pardon, or a certificate of relief from barriers under the bill, can relieve an offender of certain barriers or forfeitures to employment or issuance of a license.

Current law defines a "barrier" as a denial of employment or a license based on a criminal conviction without consideration of whether the nature of the offense bears a direct relationship to the employment or license. The bill expands denials to include access to public housing. The bill also specifies that a "direct relationship" is when the nature of the criminal conduct has a direct bearing on the person's fitness or ability to perform a duty or responsibility necessarily related to the employment, license, or public housing.

Currently, a "forfeiture" is disqualification or ineligibility for employment or a license that is by law based on a conviction. The bill also applies to disqualifications from public housing.

The bill specifies that the certificate must be labeled "certificate of employability," "certificate of suitability of licensure," "certificate of suitability for public housing," or an appropriate combination of them.

ISSUANCE BY SUPERIOR COURT

The bill allows the Superior Court to issue a certificate to a state resident convicted in the court if it (1) did not require incarceration immediately after sentencing or (2) imposed less than a two-year sentence. The court can issue a certificate at sentencing or while the offender is on probation. The bill allows the court to enlarge the relief granted at any time on petition of the offender. It appears that the board also has authority to issue, change, or revoke a certificate for these offenders, regardless of the actions taken by the court.

The bill prohibits the court from issuing a certificate unless the court makes the same findings as the board under existing law: that the relief granted in the certificate (1) promotes the public policy of rehabilitation of offenders through employment and access to affordable housing and (2) is consistent with the public interest in public safety, victims' safety, and protecting property.

To determine whether to issue a certificate, the bill allows the court to ask the Judicial Branch's Court Support Services Division (CSSD) to investigate and report on the applicant. CSSD must seek input from any of the offender's crime victims. CSSD's report is confidential but can be disclosed (1) to the applicant, (2) where required or permitted by statute, or (3) on the court's specific authorization. The board, under current law, can request that its staff conduct such an investigation and the same provisions apply.

The bill requires the court to immediately file with the board a copy of any certificate issued.

ISSUANCE BY THE BOARD

The law allows the board to issue a provisional pardon (or certificate under the bill) any time after sentencing. The bill specifies that this includes issuing one before the offender's release from custody, probation, or parole.

The bill allows a pardons panel or parole release panel of the board to issue the certificate. Under current law, only pardons panels can issue provisional pardons.

Currently, the board can issue a provisional pardon if (1) an offender was convicted of a crime in this state or another jurisdiction and is a Connecticut resident, (2) the relief may promote the public policy of rehabilitating offenders through employment, and (3) the relief is consistent with public safety and protection of property. The bill adds that the relief (1) may promote access to affordable housing and (2) must be consistent with victim safety.

TEMPORARY CERTIFICATES

Under current law, a provisional pardon issued by the board while an offender is on probation or parole is deemed temporary until the offender completes probation or parole. The bill makes certificates temporary under the same conditions, makes those issued while an offender is incarcerated temporary, and specifies that temporary certificates become permanent when the offender completes his or her incarceration, probation, or parole.

The bill allows courts to issue temporary certificates and, as with the board under current law, allows the court to revoke a temporary certificate for violating the conditions of probation or parole. The bill specifies that revocation of a temporary certificate by either the court or board reinstates the barriers or forfeitures listed in the certificate as of the date the certificate-holder receives written notice of revocation and the person must surrender the certificate to the issuing authority.

REPORTS AND EVALUATIONS

By October 1, 2013, the bill requires the board and any court that received an application or petition for a certificate or issued one during the prior year to submit to OPM, on an OPM-prescribed form, data on the number of applications or petitions received, denied, and granted. The board and courts must submit reports every six months. By January 1, 2014, the Sentencing Commission must post the data on its website and update it every six months.

The bill requires the Sentencing Commission, or its designee, to evaluate the effectiveness of certificates at promoting the public policy of rehabilitating offenders consistent with the public interest in public

safety, crime victim safety, and protecting property. The evaluations must cover three years beginning October 1, 2012. The commission must report to the Judiciary Committee by January 15 of 2014, 2015, and 2016 on the certificates' effectiveness and recommendations for statutory changes.

EMPLOYMENT

The law allows the state or a state agency to deny employment or a credential (such as a professional license or permit) to someone because of a prior criminal conviction if the state or a state agency finds the person unsuitable after considering (1) the nature of the crime and its relationship to the job, (2) information pertaining to the person's rehabilitation, and (3) the time elapsed since the conviction or release.

The bill prohibits denying an application based on a prior conviction unless there is a direct relationship between the conviction and the employment or credential sought by the applicant. The state or agency must consider any certificate issued to the applicant and the bill deems the certificate to show presumed suitability for the job or credential.

HOUSING

By law, a public housing authority can set criteria to determine eligibility for renting public housing. Among other things, the authority can consider information about a person's criminal history, including crimes involving physical violence to people or property, illegal drugs, or other acts that would adversely affect other tenants' health, safety, or welfare. The bill requires the authority to consider a certificate in making its determination, except as required by federal law (see BACKGROUND).

BACKGROUND

Federal Housing Regulations

Federal regulations require public housing authorities to screen family behavior and tenant suitability. The authority can consider all relevant information, which includes criminal histories related to

crimes of physical violence to people or property and acts that would adversely affect tenants' health, safety, or welfare, including drug activity. The authority must consider the time, nature, and extent of the applicant's conduct, including the offense's seriousness. The authority can consider factors that might indicate a reasonable probability of favorable future conduct, such as evidence of rehabilitation (24 CFR 960.203).

Federal regulations prohibit admission of a person to public housing (1) who is subject to lifetime sex offender registration or (2) for three years from the date of eviction if a household member was evicted from public housing for drug-related criminal activity (24 CFR 960.204).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 28 Nay 17 (04/02/2012)